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SUBJECT: CAUTIOUS BAN SEEMS TO SUPPORT OUR KOSOVO BOTTOM
LINES

REF: SECSTATE 163405

11. (SBU) Summary: On December 5, the Coordinating and Drafting Group minus Russia plus Portugal met with SYG Ban to discuss the way ahead on Kosovo in the post-Troika period. The group laid out the likelihood of a blocked Security Council and the need to find a status solution outside of the Council. Ban responded in a cautious tone, but used language that seemed to indicate support for our bottom line outcome. Ban stated, inter alia, that he would consider "the possible actions of member states as well as possible counter actions by Serbia on the ground." Ban also expressed readiness to deal with possible changes on the ground in a realistic way. Ban warned that he intended to transmit the Troika report in a "neutral tone in the interest of the international community" and so as to "preserve space for himself." End summary.

Meeting With SYG Ban

12. (SBU) Following a morning preparation meeting of the Coordinating and Drafting Group minus Russia plus Portugal where division of labor in speaking to Ban was determined and drawing on points in reftel, Khalilzad opened the group's meeting with SYG Ban noting that the Troika would be a failure and that we needed to discuss with Ban transmission of the Troika's report and other key actions, bearing in mind that the Security Council would likely not be able to find a solution but that the U.S. and key EU countries were determined to find a solution to Kosovo's status, perhaps outside of the UNSC. Khalilzad explained that EU colleagues would address specific points with UK Permrep Sawyers discussing the transmittal letter, Portuguese Permrep Salgueiro touching on the EU issues and Italian Permrep Spatafora reviewing the December 19 UNSC meeting.

13. (SBU) Sawyer's told Ban the group was sensitive to pressure that Russia was applying to Ban and did not want to damage his relations with a key member state, but suggested reasonable elements for a cover letter include: 1) the Troika has completed its work 2) recalling the CG statement that the status quo is not sustainable (so Ban would not have to say it himself directly) 3) reiterating the need to maintain peace in the region and 4) noting the UN will remain in touch with other organizations.

14. (SBU) Salgueiro stressed to Ban that the December 14 European Council statement in its final form would likely be strong and contain the following elements: 1) the Troika process has concluded 2) despite comprehensive efforts the Troika is exhausted 3) the parties must avoid statements that endanger security and also must refrain from violence 4) note

the SYG's statement that the status quo is not sustainable 5) stress Kosovo is a sui generis case 6) underscore the EU is ready to play a leading role in strengthening stability in the region and in implementing a status settlement as well as to increase its preparations for an ESDP mission and contribution to an International Civilian Office 7) encourage Serbia to meet the necessary conditions to sign a Stabilization and Association Agreement.

15. (SBU) Spatafora stated that he had received a letter from Serbian Permrep Jevremovic requesting that Prime Minister Kostunica participate in the December 19 UNSC meeting. Spatafora said that the Italian presidency would work to find a format that would accommodate the participation of both parties to the Troika process in the UNSC meeting. Spatafora also forecast that the UNSC would prove to be deadlocked again as it was in July. He told Ban that the question of Ban's own participation in the meeting was up to him.

16. (SBU) SYG Ban responded that he would "transmit the Troika report quickly on December 10 in a neutral tone." Ban stated that discussions with senior advisers made him believe this is in the best interest of the international community and that he needs to "keep space for himself in upcoming negotiations in a mutually acceptable way." Ban reported that his legal advisers had convinced him that, absent other guidance from the Security Council, 1244 remains the basis for all actions of UNMIK and other entities in Kosovo. Ban would seek to ensure that the UN is independent, promote the UN's long-term legacy in Kosovo and prevent a worsening of the situation on the ground. Ban said he will also take into account the European Council statement and "the possible actions of member states as well as possible counter actions

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by Serbia on the ground." Ban added it might be necessary "to be ready to deal with possible changes on the ground in a realistic way." Ban said he will be "in a listening mode on December 19" and "not prejudge what members or parties will say."

17. (SBU) Ban asked if there was any possibility for further dialogue in the Council. Special Adviser Veejay Nambiar asked whether there might be a further meeting on December 21, to which Spatafora responded it looked likely that all discussion would end the same day. Ambassador Khalilzad acknowledged to Ban that we did not want him to lose his ability to work with all sides, but stressed it was critical he include as many of our points as possible in his transmission letter. Ban argued that he did not intend to give in to Russian pressure, but would act on his own judgment that is informed by a fair assessment from his political and legal advisers. Sawyers added that the group had chosen to meet Ban in a format that includes all EU countries on the Council plus Portugal to emphasize that Europeans want to solve a problem that affects their region and for which they will pay the price if they can not, adding that "it is easy for those to criticize who have no stake."

Comment

18. (SBU) Ban has clearly become familiar now with many of the key arguments on Kosovo and was fairly well prepared for the meeting. While his approach was much more circumspect than we might have hoped for, much of his coded phrasing seemed to be telling us that he supports US-EU bottom lines. However, the game has just begun and we will need to keep up or apply greater pressure to influence Ban to take any bolder actions than he has planned or just to prevent any deterioration from where he is now. Russian Permrep Churkin already made his next move when he told Khalilzad later in the day that he will argue against a meeting format that allows a Kosovar intervention during the December 19 Security Council meeting and insist on the previous format where the Kosovars are represented by SRSR Rucker.

Participant List

19. (U)

UN: SYG Ban, U/SYG and Special Adviser Nambiar, U/SYG
Guehenno, U/SYG Pascoe

United States: Ambassador Khalilzad
Italy: Ambassador Spatafora
Germany: Ambassador Matussek
Slovakia: Ambassador Burian
UK: Ambassador Sawyers
France: Ambassador LaCroix
Belgium: Ambassador Verbeke
Khalilzad